

BK011353PG01765

WAKE COUNTY, NC 397
LAURA M RIDDICK
REGISTER OF DEEDS
PRESENTED & RECORDED ON
05/10/2005 AT 13:07:09

BOOK:011353 PAGE:01765 - 01772

Upon recording return to:
Adrienne Mabry
KB HOME RALEIGH-DURHAM LLC
1100 Navaho Drive, Suite GL3
Raleigh, NC 27609

Cross Reference:
Deed Book 9915; Page 1290-1342

FIRST AMENDMENT TO THE BYLAWS OF WINDCREST COMMUNITY ASSOCIATION, INC.

THIS AMENDMENT (hereinafter referred to as the "Amendment") to the Bylaws of Windcrest Community Association, Inc. is made this 25th day of March, 2005, by **COLONY HOMES, L.L.C.**, a Georgia limited liability company (hereinafter referred to as the "Declarant") and **WINDCREST COMMUNITY ASSOCIATION, INC.**, a North Carolina nonprofit corporation (hereinafter referred to as the "Association").

WITNESSETH:

WHEREAS, Declarant executed that certain Declaration of Protective Covenants for Windcrest which was recorded on February 17, 2003 in Deed Book 9915, page 1290, *et seq.*, in the Wake County Public Registry (hereinafter as supplemented and/or amended from time to time, the "Declaration"); and

WHEREAS, attached to the Declaration and recorded therewith as Exhibit "C" thereof are the Bylaws of the Windcrest Community Association, Inc. (hereinafter as supplemented and/or amended from time to time, the "Bylaws"); and

WHEREAS, the Association is a non-profit corporation organized under the North Carolina Nonprofit Corporation Act to be the Association named in the Declaration to have the power and authority set forth therein; and

WHEREAS, the Declarant and the Association desire to amend the Bylaws as set forth herein and intend for this Amendment to be prospective only; and

WHEREAS, pursuant to Section 6.4 of the Bylaws, the Bylaws may be amended upon the affirmative vote of at least two-thirds (2/3) of the Total Association Vote and the consent of

Declarant (until the earlier of: (a) the date that the Declarant no longer owns any property in the Community and Declarant no longer has the right to unilaterally annex additional property to the Community and a certificate of occupancy has been issued for a dwelling on each Lot in the Community; or (b) the date of recording by Declarant in the real estate records of the county where the Community is located of a written instrument terminating its consent rights); and

WHEREAS, attached hereto as Exhibit "A" and incorporated herein by reference is a certification by the Association, which certification states unequivocally that this Amendment was approved by the affirmative vote of at least two-thirds (2/3) of the Total Association Vote, as provided in the Bylaws;

NOW THEREFORE, Declarant and the Association hereby adopt this Amendment to the Bylaws.

1.

The Bylaws are hereby amended by adding the following new Sections 2.12 and 2.13 to the end of Article II of the Bylaws:

2.12 Action Without A Formal Meeting. Any action required or permitted to be approved by the members may be approved without a meeting if one (1) or more consents, in writing, setting forth the action so taken, shall be signed and dated by all members (including the Declarant, if the consent of the Declarant is required) entitled to vote on the action. The record date for such action shall be the date that the first member signs a consent. Each signed consent shall be included in the minutes of meetings of members filed in the permanent records of the Association.

2.13 Action By Written Ballot. Any action that may be taken at any annual, regular or special meeting of members may be taken without a meeting if approved by written ballot as provided herein. The Association shall deliver a written ballot to each member entitled to vote on the matter. The written ballot shall set forth each proposed action and provide an opportunity to vote for or against each proposed action. All solicitations for votes by written ballot shall indicate the number of responses needed to meet the quorum requirements; state the percentage of approvals necessary to approve each matter other than election of directors; and specify the time by which a ballot must be received by the Association in order to be counted. A timely written ballot received by the Association may not be revoked. Approval by written ballot of an action shall only be valid when the number of votes cast by ballot equals or exceeds the quorum required to be present at a meeting held to authorize such action and the number of approvals equals or exceeds the number of votes that would be required to approve the matter at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot. The results of each action by written ballot shall be certified by the Secretary and shall be included in the minutes of meetings of members filed in the permanent records of the Association.

2.

The Bylaws are hereby amended by deleting Section 3.3 of the Bylaws in its entirety and inserting in lieu thereof the following new Section 3.3:

3.3 Number of Directors. During the period that the Declarant has the right to appoint and remove the officers and directors of the Association as provided above, the Board of Directors shall consist of from one to three directors as determined by Declarant in writing from time to time. Thereafter, the Board shall consist of three or more directors, with at least one (1) director from each Neighborhood, who shall be elected as provided below. The number of directors of the Board shall be increased if necessary so that there is always an odd number of directors.

3.

The Bylaws are hereby amended by deleting Section 3.5 of the Bylaws in its entirety and inserting in lieu thereof the following new Section 3.5:

3.5 Election and Term of Office. After the Declarant's right to appoint directors and officers terminates, the Association shall call a special meeting (or take action under Section 2.12 and Section 2.13 in lieu of a meeting) and the members shall elect at least three (3) directors (the number of directors to be determined by the Board based, in part, on the number of Neighborhoods and in accordance with Section 3.4 above) as provided below. Each Neighborhood shall elect at least one (1) director with the remaining directors to be elected at large. The initial term of the majority of the directors receiving the most votes shall be fixed at two (2) years, and thereafter successors shall be elected to a term of two (2) years; the initial term of the remaining directors shall be fixed at one (1) year, and thereafter successors shall be elected to a term of two (2) years. At annual meetings thereafter, directors shall be elected as necessary to fill vacant seats on the Board. A quorum must be present at the meeting. All eligible members of the Association shall vote on all directors to be elected, and the candidates receiving the most votes shall be elected.

4.

Unless otherwise defined herein, the words used in this Amendment shall have the same meaning as set forth in the Declaration.

5.

This Amendment shall be effective only upon being recorded in the records of the Register of Deeds of Wake County, North Carolina and shall be enforceable against current Owners of a Lot subject to the Declaration.

3

BK011353PG01768

6.

Except as herein modified, the Bylaws shall remain in full force and effect.

[SIGNATURES BEGIN ON FOLLOWING PAGE]

IN WITNESS WHEREOF, Declarant hereby executes this instrument under seal on the date first above written.

DECLARANT: COLONY HOMES, L.L.C., a Georgia limited liability company

By: [Signature] (SEAL)
Name: Patricia E. Hanchette
Title: President

STATE OF North Carolina
COUNTY OF Wake

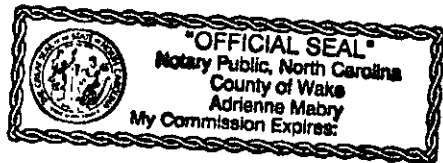
I, a Notary Public of the County and State aforesaid, certify that Patricia E. Hanchette personally appeared before me this day and acknowledges that he/she is the President of Colony Homes, L.L.C., a Georgia limited liability company, and that by authority duly given and as the act of the company, the foregoing instrument was signed in its name by its President.

Witness my hand and official stamp or seal, this 25th day of March, 2005.

[stamp/seal] [Signature]
Notary Public

My Commission Expires: 12-11-06

[OFFICIAL SEAL]



[SIGNATURES CONTINUE ON FOLLOWING PAGE]

BK011353PG01770

IN WITNESS WHEREOF, the Association hereby executes this instrument under seal on the date first above written.

ASSOCIATION: WINDCREST
COMMUNITY ASSOCIATION,
INC., a North Carolina nonprofit
corporation

By: [Signature]
Name: John O'Donnell
Title: President

ATTEST:

[Signature]
Secretary

STATE OF NORTH CAROLINA

COUNTY OF WAKE

I, Adrienne Mabry, a notary public of Wake County, North Carolina, do hereby certify that Patricia E. Hanchette personally came before me this day and acknowledged that she is the Secretary of Windcrest Community Association, Inc., a North Carolina nonprofit corporation, and that by authority duly give and as the act of the corporation, the foregoing instrument was signed in its name by its President John O'Donnell, sealed with its corporate seal and attested by Patricia E. Hanchette as its Secretary.

Witness my hand and official seal, this the 25th day of March, 2005.

[Signature]
Adrienne Mabry, Notary Public

My commission expires 12-11-2006

[OFFICIAL SEAL]

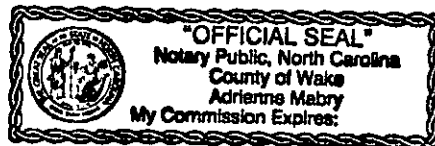


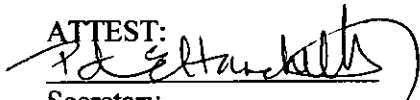
Exhibit "A"

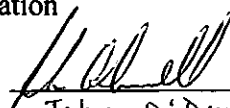
**CERTIFICATION OF VALIDITY OF
FIRST AMENDMENT TO THE BYLAWS OF WINDCREST COMMUNITY ASSOCIATION,
INC.**

By the authority of its Board of Directors, the Windcrest Community Association, Inc. hereby certifies that the foregoing instrument was approved by the affirmative vote of at least two-thirds (2/3) of the Total Association Vote, as provided in the Bylaws (as defined in such instrument).

As of the 25th day of March, 2005.

**WINDCREST
COMMUNITY ASSOCIATION,
INC.,** a North Carolina nonprofit
corporation

ATTEST:

Secretary

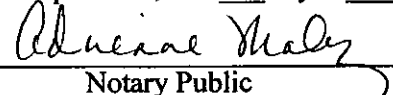
By: 
Name: John O'Donnell
Title: President

[AFFIX CORPORATE SEAL]

STATE OF North Carolina
COUNTY OF Wake

I, a Notary Public, do hereby certify that John O'Donnell personally came before me this day and acknowledged that ~~he~~/she is Secretary of Windcrest Community Association, Inc., a North Carolina nonprofit corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its president John O'Donnell sealed with its corporate seal and attested by Patricia E. Hanchette as its Secretary.

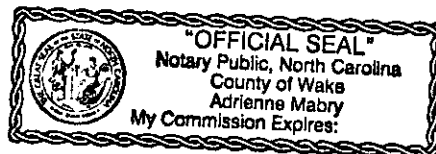
Witness my hand and official stamp or seal, this 25th day of March, 2005.

[stamp/seal] 
Notary Public

My Commission Expires: 12-11-2006

[OFFICIAL SEAL]

P:\Clients\1385\NORTH CAROLINA\Windcrest\first amendment to bylaws.doc





BOOK:011353 PAGE:01765 - 01772

Yellow probate sheet is a vital part of your recorded document.
Please retain with original document and submit for rerecording.



Wake County Register of Deeds
Laura M. Riddick
Register of Deeds

North Carolina – Wake County

The foregoing certificate of Adrienne Malory

_____ Notary(ies) Public is (are) certified to be correct. This instrument and this certificate are duly registered at the date and time and in the book and page shown on the first page hereof.

Laura M. Riddick, Register of Deeds

By: Jana Morgan
Assistant/Deputy Register of Deeds

This Customer Group
_____ # of Time Stamps Needed

This Document
_____ New Time Stamp
8 # of Pages